

EXHIBIT 9

Jewish academy alleges discrimination by Clarkstown in Grace Baptist application

Robert Brum, The Journal News Published 2:16 p.m. ET June 7, 2019

NANUET - An Orthodox Jewish school is alleging that the town of Clarkstown's handling of its application to convert Grace Baptist Church was discriminatory, and the school is hinting at potential legal action.

Documents filed on behalf of Ateres Bais Yaacov Academy claim the town "arbitrarily and erroneously" [denied the school's application](#) ([/story/news/local/rockland/nanuet/2019/01/17/clarkstown-denies-academys-building-permit-application-grace-church/2591969002/](#)) to make improvements to the historic church — a decision it contends "was rife with invidious discrimination" that infringed upon the school's religious liberty.

The contract for the academy to buy the historic church property [was terminated last month](#). ([/story/news/local/rockland/nanuet/2019/05/16/grace-baptist-church-terminates-sale-yeshiva-nanuet/3665127002/](#)) But Ateres is continuing to pursue the application before the town in case it has a chance to "recommence discussions" to buy it, according to the documents.

"We're not trying to provoke a court battle but we're certainly prepared for it," said Ira Emanuel, an attorney for the K-12 girls' school and its dean, Rabbi Aaron Fink.

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Grace Baptist Church in Nanuet, photographed on Thursday, November 16, 2017, is up for sale. (Photo: John Meore/The Journal News)

NANUET: Grace Baptist Church terminates sale to Ateres Bais Yaacov (/story/news/local/rockland/nanuet/2019/05/16/grace-baptist-church-terminates-sale-yeshiva-nanuet/3665127002/)

NANUET: Town, school district exploring Grace Baptist Church purchase (/story/news/local/rockland/nanuet/2019/06/04/nanuet-town-school-district-exploring-grace-baptist-church-purchase/1342961001/)

A document titled "A special memorandum of law concerning religious discrimination" was filed with the town on Thursday by Weil, Gotshal & Manges, a law firm known for representing clients that sue under the federal Religious Land Use and Institutionalized Persons Act, known as RLUIPA.

The sweeping law, enacted in 2000, says that municipalities cannot apply land-use regulations to stop the exercise of religion without a compelling interest.


The town's determination that the property's use as a school had expired "unlawfully impeded the establishment of an Orthodox Jewish school in Clarkstown," the memorandum states.

The memorandum contends the town's Zoning Board of Appeals is obligated to continue hearing Ateres' case because the decision will affect future applications for the property's use.


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It claims "troubling evidence that the Town has, far from accommodating (Ateres) religious exercise, actively sought to infringe upon those rights."

If the zoning board places Ateres "on unequal terms with other applicants, and/or substantially burdens (its) religious exercise, it would subject the Town of Clarkstown to potential violations of both the First Amendment and the Religious Land Use and Institutionalized Persons Act," the memorandum states.

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An RLUIPA violation would subject the town to "substantial monetary liability," it states.



Clarkstown Supervisor George Hoehmann (Photo: Peter Carr/The Jou, File photo by Peter Carr/The Jou)

Clarkstown Supervisor George Hoehmann defended the town's handling of Ateres' application.

"I stand by the fact that the town was not discriminatory and the building inspector rendered his opinion and ABY was treated just like any other applicant," Hoehmann said Friday. "If they were unable to close for whatever reason, it's not the fault of the town or anyone else."

Hoehmann added: "We will continue to vigorously enforce our building and zoning codes irrespective of the background of the owner."

Opposition then termination

Ateres' contract to purchase the church was terminated May 16 following months of fierce community opposition and haggling with Clarkstown over its permit.

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Grace Baptist Church in Nanuet, photographed on Thursday, November 16, 2017, is up for sale. (Photo: John Meore/The Journal News)

The town and Nanuet school district subsequently announced plans (<https://www.rockland.com/story/news/local/rockland/nanuet/2019/06/04/nanuet-town-school-district-exploring-grace-baptist-church-purchase/1342961001/>) to explore the possibility of buying the 2-acre, \$4.9 million parcel on Demarest Avenue for shared purposes, including senior housing and a performing arts space.

Paul Adler, chief strategy officer for Rand Commercial, the property's listing broker, said the interplay between the town and Ateres would not deter Grace Baptist from moving forward with Clarkstown and the school district.

READ THE LETTER (<https://www.documentcloud.org/documents/6140181-Ateres-Appeal-Letter.html>):

LAW OFFICE
Ira M. Emanuel, P.C.
Four Laurel Road, New City, NY 10956
Tel: 845.634.4141 Fax: 845.634.9312
E-mail: _____ 1

Counsel to
Freeman & Loftus, RLLP

Amy Mele, Esq.
Of counsel

June 6, 2019

Clarkstown Zoning Board of Appeals
10 Maple Avenue
New City, NY 10956
Att: Catherine Cirrone

Re: Appeal of Ateres Bais Yaakov Academy of Rockland

Dear Ms. Cirrone:

As you know, I represent the applicant, Ateres Bais Yaakov Academy of Rockland ("ABY") in the above-referenced appeal. At the time of application, ABY was a contract vendee of the subject property; the owner being Grace Baptist Church ("GBC").

As of May 16, the proposed transaction was cancelled by GBC. ABY attributes this cancellation to the actions of and on behalf of the Town of Clarkstown, including those actions that were in violation of New York State and federal law relating to religious and educational land uses. Attached is a memorandum of law concerning religious discrimination from Weil, Gotshal & Manges LLP, ABY's *pro bono* attorneys, with a specific focus upon how the Building Inspector's denial of its request for a building permit infringed upon ABY's religious liberty and was rife with invidious discrimination. ABY also believes that the Town's interference was the direct cause of ABY losing its financing resources.

On May 16, GBC filed a letter with the ZBA "revok[ing] any consent to land use applications" relating to the subject property. ABY hereby objects to GBC's withdrawal of consent and urges the ZBA to schedule a hearing in the coming weeks. Contrary to GBC's belief, the ZBA is still lawfully obligated to continue to hear ABY's appeal because declaratory relief on the misapplication of Local Law No. 5 of the Clarkstown Zoning Code and/or a grant of an area variance will necessarily bind those interested in purchasing the Grace Baptist Church in the future (whether that be ABY or otherwise) and would also affect other properties to which Local Law No. 5 has been or will be similarly misapplied. This is especially true because the Town's own actions have conveniently left itself as one of the few, if not the only, likely purchasers of the Property. Indeed, recent press reports have

confirmed that this is exactly what is happening. In addition, ABY's appeal and application for an area variance is not moot because the nature of the action is

READ THE MEMORANDUM (<https://www.documentcloud.org/documents/6140182-Ateres-Appeal.html>):

ZONING BOARD OF APPEALS: TOWN OF CLARKSTOWN
COUNTY OF ROCKLAND: STATE OF NEW YORK
-----X

In the Matter of the Application of:

ATERES BAIS YAAKOV ACADEMY OF ROCKLAND

Appealing the determination of the Building Inspector, or alternatively, seeking an
area variance
-----X

**SPECIAL MEMORANDUM OF LAW CONCERNING RELIGIOUS
DISCRIMINATION IN CONNECTION WITH ATERES BAIS YAAKOV
ACADEMY OF ROCKLAND'S APPEAL AND APPLICATION FOR AN
AREA VARIANCE**

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